

## Text of the By-Law Regulating

# Demolition of Historically Significant Buildings Or Structures (Act Xv, Section O, General By-Laws of the Town of Hingham)

### (a) Intent and Purpose

This by-law is adopted for the purpose of protecting the historic and aesthetic qualities of the Town by preserving, rehabilitating or restoring whenever possible, buildings or structures which constitute or reflect distinctive features of the architectural or historic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage of the Town.

### (b) Definitions

For the purpose of this section the following words and phrases have the following meanings:

- Commission – the Hingham Historical Commission;
- Commissioner – the Hingham Building Commissioner;
- Demolition Permit – The permit issued by the Commissioner as required by the state building code for the demolition, partial demolition or removal of a building or structure; and
- Historically Significant Building or Structures – any building or structure which is (1) importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth of Massachusetts or the United States of America; or (2) is historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures.

### (c) Regulated Buildings and Structures

The provisions of this Section O of Article XV shall apply only to the following buildings or structures: (1) a building or structure listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listing on either of said Registers; or (2) a building or structure located within 200 feet of the boundary line of any federal, state or local

historic district; or (3) a building or structures included in the Inventory of the Historic and Prehistoric Assets of the Commonwealth, or designated by the Commission for inclusion in said Inventory. Notwithstanding the preceding sentence, the provisions of this section shall not apply to any building or structure located in a local historic district and subject to regulation under the provisions of Chapter 40C of the Massachusetts General Laws.

**(d) Procedure**

(1) The Commissioner shall forward a copy of each demolition permit application for a building or structure identified in paragraph (c) of this section to the Commission within seven (7) days after the filing of such application.

(2) Within thirty (30) days after its receipt of such application, the Commission shall determine whether the building or structure is historically significant. The applicant for the permit shall be entitled to make a presentation to the Commission if he or she makes a timely request in writing to the Commission.

(3) If the Commission determines that the building or structure is not historically significant, it shall so notify the Commissioner and the applicant in writing and the Commissioner may issue a demolition permit. If the Commission determines that the building or structure is historically significant, it shall notify the Commissioner and the applicant in writing that a demolition plan review must be made prior to the issuance of a demolition permit. If the Commission fails to notify the Commissioner and the applicant of its determination within thirty (30) days after its receipt of the application, then the building or structure shall be deemed not historically significant and the Commissioner may issue a demolition permit.

(4) Within sixty (60) days after the applicant is notified that the Commission has determined that a building or structure is historically significant, the applicant for the permit shall submit to the Commission ten (10) copies of a demolition plan which shall include the following information: (i) a map showing the location of a building or structure to be demolished with reference to lot lines and to neighboring buildings and structures; (ii) photographs of all street façade elevations; (iii) a description of the building or structure, or part thereof, to be demolished; (iv) the reason for the proposed demolition and said data supporting said reason, including, where applicable, data sufficient to establish any economic justification for demolition; and (v) a brief description of the proposed reuse of the parcel on which the building or structure to be demolished is located.

(5) The Commission shall hold a public hearing with respect to the application for a demolition permit, and shall give public notice of the time, place and purposes thereof at least fourteen (14) days before said hearing in such manner as

it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Planning Board, to any person filing written request for notice hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice. Within sixty (60) days after its receipt of the demolition plan, the Commission shall file a written report with the Commissioner on the demolition plan which shall include the following: (i) a description of the age, architectural style, historic association and importance of the building or structure to be demolished; (ii) a determination as to whether or not the building or structure should preferably be preserved. The Commission shall determine that a building or structure should preferably be preserved only if it finds that the building or structure is an historically significant building or structure which, because of the important contribution made by such building or structure to the Town's historical and/or architectural resources, it is in the public interest to preserve, rehabilitate or restore.

(6) If, following the demolition plan review, the Commission does not determine that the building or structure should preferably be preserved, or if the Commission fails to file a report with the Commissioner within the time limit set out in subparagraph (5) next above, then the Commissioner may issue a demolition permit.

(7) If, following the demolition plan review, the Commission determines that the building or structure should preferably be preserved, then the Commissioner shall not issue a demolition permit for a period of six (6) months from the date of the filing of the Commission's report unless the Commission informs the Commissioner prior to the expiration of such six (6) month period that it is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building or structure who is willing to preserve, rehabilitate or restore the building or structure, or has agreed to accept a demolition permit on specified conditions approved by the Commission.

#### **(e) Emergency Demolition**

If the condition of a building or structure poses a serious and imminent threat to public health or safety due to its deteriorated condition, the owner of such building or structure may request the issuance of an emergency demolition permit from the Commissioner. As soon as practicable after the receipt of such a request, the Commissioner shall arrange to have the property inspected by a board consisting of himself, the Chairmen of the Commission and the Board of Health, and the Chief of the Fire Department, or their respective designees. After inspection of the building or structure and consultation with this board, the

Commissioner shall determine whether the condition of the building or structure represents a serious and imminent threat to public health or safety and whether there is any reasonable alternative to the immediate demolition of the buildings or structure, which would protect the public health or safety. If the Commissioner finds that the condition of the building or structure poses a serious and imminent threat to public health or safety, and there is no reasonable alternative to the immediate demolition permit under the provisions of this paragraph (e), he shall prepare a written report describing the condition of the building or structure and the basis for his decision to issue an emergency demolition permit with the Commission. Nothing in this paragraph (e) shall be inconsistent with the procedures for the demolition and/or securing of buildings and structure established by Chapter 143, Section 6-10, of the Massachusetts General Laws. In the event that a Board of Survey is convened under the provisions of Section 8 of said Chapter 143 with regard to any building or structure identified in paragraph (c) of this section, the Commissioner shall request the Chairman of the Commission or his designee to accompany that Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the Commission.

**(f) Non-Compliance**

Anyone who demolishes a building or structure identified in paragraph (c) of this section without first obtaining, and complying fully with the provisions of, a demolition permit, shall be subject to a fine of not less than ten (10) dollars and not more than three hundred dollars. In addition, unless a demolition permit was obtained for such demolition, and unless such permit was fully complied with, the Commissioner shall not issue a building permit pertaining to any parcel on which a building or structure identified in paragraph (c) of this section has been demolished for a period of three (3) years after the date of demolition.

**(g) Appeals to Superior Court**

Any person aggrieved by a determination of the Commission may, within twenty days after filing of the notice of such determination with the Commissioner, appeal to the Superior Court for Plymouth County. The court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the decision of the Commission to be unsupported by the evidence or to exceed the authority of the Commission or may remand the case for further action by the Commission or make such other decree as justice and equity shall require.

**(h) Severability**

In case any section, paragraph or part of the By-Law is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph, and part of this By-Law shall continue in full force and effect.



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